

## **REMARKS**

### **STATUS OF THE CLAIMS.**

Claim 1 is cancelled and claims 2-15 are newly added with entry of the present amendment. In the prior Office Action, claim 1 was rejected under statutory double patenting in regard to USPN 6,720,183 B2 and also under nonstatutory double patenting in regard to USPNs 5,922,602 and 6,479,291. Applicants respectfully amend. The changes introduce no new matter and support is present in the application and claims as originally filed. The changes are made without prejudice and are not to be construed as abandonment of any previously claimed subject matter or agreement with any objection or rejection of record. Accordingly, entry of the Amendment is respectfully requested.

### **CORRECTION OF PRIORITY CLAIM**

The prior Office Action denied the application's priority claim due to a typographical error in the listing of prior application numbers (namely application 09/265,576 was incorrectly written as 09/256,576). Applicants note that the specification was amended by the Preliminary Amendment of June 7, 2004 (within four months of filing of the application) to correct such error. Thus, Applicants respectfully request that the application be granted the benefit of the earlier filing date as requested.

### **REJECTIONS TO THE CLAIMS**

Claim 1 was rejected in the prior Office Action due to both statutory and nonstatutory double patenting (in regard to USPN 6,720,183 and USPNs 5,922,602 and 6,479,291 respectfully). Applicants herein amend. Support for the currently amended claims can be found throughout the specification, claims, and drawings as filed, e.g., Example 6, page 4, lines 3-6, etc.

The current claims do not fall within statutory double patenting since they are not coextensive in scope. For example, the claims in USPN 6,720,183 do not recite methods comprising increase of a gene-product of interest. Thus, Applicants respectfully request that the rejection be withdrawn.

Additionally, the current claims also do not fall within nonstatutory obviousness/anticipation double patenting. The current claims are not obvious and are patentably distinct from those of USPN 5,922,602 and USPN 6,479,291. Again, the current claims are directed

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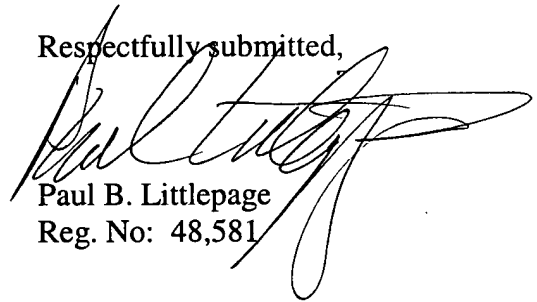
towards methods of producing cells comprising an increased production of a gene-product of interest, while USPNs 5,922,602 and 6,479,291 are drawn towards systems of reduction of expression of target genes.

### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. In the event that substantive matters are felt to remain, the Examiner is invited to telephone the undersigned at (510) 769-3507.

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Respectfully submitted,



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#### ATTACHMENTS:

- 1) A petition to extend the period of response for 2 months;
- 2) A Transmittal; and,
- 3) A Receipt Indication Postcard.